[XXXVth YEAR.] THE [No. 1727.]

MARYLAND GAZETTE.

FRIDAY, FEBRUARY 18, 1780.

For the MARYLAND GAZETTE.

IT may be a juſt remark, that more enterprizes periſh in the laſt ſtage of their progreſs, than in any other. The reaſon is, that men too ſoon believe themſelves to have attained their purpoſe, and remit the vigour of their earlier exertions. It may be the caſe with us in our exertions for the eſtabliſhment of the independence of America. Theſe are more remiſs than they, formerly, have been, becauſe we have flattered ourſelves that the work is compleated; that the enemy are diſcouraged, having become ſenſible that it is not in their power to reduce us; that a negotiation will be ſet on foot this winter, and peace infallibly concluded before the ſpring.

Our enemies, on the other hand, are not ſo ſanguine; or, if they look for a peace at all, they expect it to begin with the relinquiſhing our independence. Their hopes are now higher than they have been for ſome time, both from their proſpect of affairs in Europe, and on this continent. This is evident from their gazettes, in which, though the miniſter cauſes many things to be inſerted, yet in theſe, the ſpirit of the people evaporates freely, and we can form a good judgment of the temper of the nation, their hopes or fears, their confidence or deſpondency, their thoughts of peace or reſolution to continue war, as it is conveyed through this channel. A paragraph from a London paper of October 27, 1779, is as follows:

"The powers friendly to this kingdom have not oppoſed themſelves to the houſe of Bourbon in the war in which ſhe has taken part with our rebellious colonies, and the reaſon is, becauſe our ſolicitations have not been ſo frequent nor ſo preſſing as they might have been. Truſting to our ſtrength ſolely, and to the recruits from Germany, we had hoped to have cruſhed the rebellion, and to have brought France to repent of her perfidiouſneſs; hence it is that we have made but ſlight applications to the States General, to Ruſſia, and to other powers. It has been only during this ſummer, ſince the undecided conteſt of count d'Eſtaing in the Weſt-Indies, and the inequality of the fleets in the channel, that it has appeared, that our maritime force is not ſo reſpectable as to awe our enemies with its uſual ſuperiority; but which, from the efforts that are making by lord Sandwich, the veſſels that are building in the docks, thoſe that are to be purchaſed from the ſtates of Holland, and from other powers, there is reaſon to believe, we will, in a ſhort time, be able to do. No one would have believed that France, in her exhauſted ſtate, could have fitted out a fleet ſo numerous in the period of a few years; and this, notwithſtanding the petulance of thoſe in oppoſition, muſt be a ſufficient apology for the officer at the head of the marine, in heſitating to put the nation to the expence of a greater naval armament, which perhaps might not have proved neceſſary. But after all, affairs are far from being [illegible]. The vague notion has prevailed, that the powers of Europe wiſh well to the independence of America, and that for this reaſon they have connived at the policy of France and Spain in their proceedings. This is a miſtake; it is leſs owing to their regard to the independence of America, than to the money of France, that theſe powers have been neutral ſo long. France has done more by her money, for half a century paſt, than by her arms. It is well known, that at this preſent time, her money has found its way to every court, and has kept them back from executing the real purpoſe of their hearts, in behalf of this iſland. This money cannot always laſt, nor will theſe powers always ſtand out; France has been under the neceſſity of borrowing twenty milions ſince the commencement of the war, to lend it to the Americans. The States General and the empreſs of Ruſſia, not able to ſtand out any longer, againſt expreſs treaty, will furniſh the ſtipulated veſſels and the number of troops, and it is to be hoped the next campaign will open with every proſpect of ſucceſs, and bring about a ſpeedy termination of the war."

A paragraph in a paper of November 18, received by the way of the Weſt-Indies, is as follows: "The French king begins to grow ſick of the congreſs. He is now, as his countrymen ſay, *un malade* in theſe politics; it is to be hoped it will cure him of that Don Quixotiſm ſo natural to rude ages and young minds, of ſetting nations free. Feeble as the countenance and protection of this monarch may be, it is from thence the rebellion derives its chief ſtrength, and if this can be drawn off by the interpoſition of other powers, the independence of America will ſoon become *dependence*, and ſo many of the American heroes become *dependents*, that on "yonder mountains*" there will not be bought ſufficient from which they ſhall be *ſuſpendent*."

It is pleaſant enough to ſee theſe effuſions of barbariſm and malignity, eſpecially when we know that they are harmleſs. But, without doubt, the king of England will leave no ſtone unturned to excite the powers of Europe againſt our ally, nor do we know what money and intrigue may be able to produce. It is the general advantage of theſe powers to eſtabliſh our independence, but by ceſſion of territories, in Europe, in the Indies, in Africa, and in America, we cannot tell what Britain may be able to accompliſh. Mankind are more moved by preſent profit, than by remote, though great advantages. Whether the iſland of Great-Britain may be able to augment her marine proportionably to the exertions which, on her part, will be neceſſary, if ſhe perſeveres in her diabolical intention of cutting the throats of the people of this country, I cannot tell. But be theſe things as they may, it is our buſineſs, to conſider what may happen, and not to remit our exertions, becauſe we have contended five campaigns, and are not yet ſubdued.

Equal encouragement appears to be taken by the enemy from the ſituation of our affairs on the continent, as is evident from a paragraph in the Whitehall gazette, ſo late as the 2d of November laſt, which is as follows:

"The rebellion in America periſhes every day. Like a kite it has been ſupported with paper wings, but theſe have become too cumberſome, and the conſtruction will ſoon drop. The army of the rebels, from the expiring of their temporary enliſtments, and famine, and nakedneſs, and other cauſes, is reduced to 5000 men; their councils are degenerated, the militia is wholly neglected, the people having become tired of twirling about a ruſty firelock. They have chaced Monſieur Gerard from Philadelphia, and the new miniſter, the chevalier de la Luzerne, has been obliged to take up his reſidence at Boſton; the bulk of the Americans cannot bear the alliance; and it is certain that they will in a ſhort time, inſtruct the congreſs to break it off. All theſe circumſtances promiſe a happy event to a new campaign, by which theſe deluded people will at length be brought to liſten to reaſon."

That our councils are, in ſome degree, degenerated, is not impoſſible, if we conſider that the firſt men have been called off to fill the executive branches of their reſpective governments; and that others, purſuing their own opinions in preference to that of the public, have become obnoxious. That our militia is neglected is alſo certain, and the obſervation of our enemies ought to be to us a memento of our duty. There is ſcarcely a firelock lifted, nor are muſter days attended to, from one end of the continent to the other. Where is that ardour for arms, that induſtry to be expert in the manual exerciſe and the field manœuvres, which diſtinguiſhed us at the beginning of the conteſt? It has departed, and has left nothing but the ſhadow of party politics and contention in its place. Does it not become the people of theſe ſtates to emerge from theſe delinquencies, and to redreſs theſe evils? Let us begin at the ſource, not by reproaching public bodies, but by delegating the wiſeſt and moſt capable men to ſerve us. We lay our hands across our breaſts, and talk of peace, when verily there is no peace. At any rate it is the readieſt way to obtain peace, to be prepared for war.

PALINURUS.

* *An expreſſion of H. Laurens to governor Johnſtone.*

To the PUBLIC.

THE policy, the delegates allege, depends on opinion; true, but if the opinion of the badneſs of the policy be founded on concluſive reaſons, it muſt be admitted, that to confiſcate Britiſh property, in the manner they propoſe, muſt be *bad* policy. Whether this is really the caſe or not, will beſt appear from an examination of their reaſons, in anſwer to that part of the ſenate's meſſage which applies more particularly to the policy of the meaſure.

It is impolitic, ſay the delegates, to load their conſtituents with taxes, which they cannot raiſe without ſelling their property, and they think ſound policy dictates the propriety of firſt ſelling that of their enemies. What, if the ſale cannot be ſupported by the law of nations, the approved practice of the wiſeſt and moſt civilized, and ſhould, in the way propoſed by the houſe of delegates, be contrary to our bill of rights, and the principles of the common law, would it then be good policy? May not this very meaſure heap heavier burthens on their conſtituents, if they ſhould be taxed hereafter to repay the value of the property confiſcated and applied? "*But when once confiſcated and applied, it cannot be reſtored.*" If a reſtitution of the identical property ſhould be impoſſible, yet the value of it, I preſume, may be paid to the preſent, or as they ſtile them, *original* owners; and this value muſt come out of the pockets of the people. The ſuppoſition is by no means inadmiſſible, even its probability, I think, may be ſupported by good reaſons, and if ſo, the ſtring of queſtions which immediately follow in their meſſage, is as little to the purpoſe, as the ſong of Chivy Chaſe. That the other ſtates have not confiſcated *Britiſh* property, has been noticed in my firſt number, and that they confiſcated the property of refugees to prevent its reſtitution, and not as a puniſhment for their treaſon, or enmity to their country, manifeſted by ſome unequivocal overt act, thoſe ſtates, I fancy, value their reputation too much, to admit. In oppoſition to the remark, "that want of reſolution implies weakneſs, and from this timidity and half-way temper of our councils, the enemy may be encouraged to perſevere longer than they otherwiſe would," I ſhall cite the ſentiment of a judicious Roman, full as pertinent as the remark juſt quoted, "that counſels which at firſt view may appear crafty, or bold, are often difficult in the execution, and diſaſtrous in the end." However, what is thought by one branch of the legiſlature to be an adherence to the principles of law, and of our conſtitution, ſhould not be termed by the other *timidity*, although the opinion may be erroneous and too ſlightly taken up; if it be timidity, it is timidity on the right ſide, and no man, or body of men, need to bluſh at being ſtigmatiſed as timid, or fearful of doing wrong. But this timidity of the ſenate, from whatever motive it may have proceeded, is to have two ſurpriſing effects; it will encourage the enemy to perſevere, and remind them of making *that* a preliminary, which might otherwiſe have eſcaped their notice. Here I do not know which to admire moſt, the very great penetration of the delegates, in making theſe wonderful diſcoveries, or the ſuppoſed forgetfulneſs of the enemy. They muſt indeed have very bad memories, to have forgot in ſo ſhort a time, the ſolemn declaration of their laſt commiſſioners on this very ſubject. "If the property intended to be confiſcated were to remain unalienated, and the bare ſuggeſtion might ſecure it to the (I preſume I venture here to call them *preſent*, and not *original*) owners, it is poſſible (ſay the delegates) that the Britiſh court, to ſave appearances, might *mention the matter*; but when this property is applied and gone, that court will be entirely ſilent about it; having loſt thirteen colonies, and the *crown* lands, it will not contend for an indemnification to retainers, and the diſaffected from theſe ſtates." To get rid of their importunity will be one inducement to that government for inſiſting on an article in the treaty of peace in their favour, and to hold out an encouragement to their partizans in any future revolution among their remaining colonies, will be another; France and Spain may not think the article quite ſo unreaſonable as it appears to the delegates; nay, thoſe powers may be well enough inclined to it, from one of the motives juſt mentioned; and it is preſumed, France and Spain will have full as great a ſhare in making a peace, as theſe ſtates; even the latter would not act wiſely in delaying that happy event, though only for ſix months, by objecting to ſuch an ar-

cle, for the damages and expences of the war, during that time, might amount to more than all the property meant to be confiscated is worth. But Great-Britain having loft ſo much, the Britiſh government will be indifferent to the ſufferings of thoſe whoſe property has been confiſcated; rather than continue the war, the Britiſh miniſters might, I allow, abandon thoſe wretches as a ſacrifice to ſad neceſſity, but if, by inſiſting ſtrenuouſly on an article in their favour, they might reaſonably hope to obtain it, national reputation, gratitude, and policy, will ſtrongly impel them to contend, with the utmoſt deciſion, for a full indemnification, *at leaſt*, of thoſe ſufferers, if not for an actual reſtitution of the property confiſcated; the reaſons aſſigned prove the probability of obtaining ſuch an indemnification.

The delegates obſerve, "we have a right to be indemnified for the expences of the war, and devaſtation of our country;" granted, but does it follow that no other indemnification can be procured, but what is to accrue from the confiſcation of Britiſh property? May not ceſſions be made in a treaty of peace of particular territories? May not Canada, for inſtance, as now claimed by Great-Britain, be reduced to narrower limits, and ſome peculiar commercial privileges granted to the United States? Nay, may not a ſum of money be ſtipulated to be paid, as a compenſation for thoſe devaſtations which have been committed contrary to the rules of war? The ſuppoſition is neither improbable or unprecedented. The enemy, it ſeems, will not expect a reſtitution of the property of their ſubjects, or the value of it; "ſhall that property therefore, exclaim the delegates, be given up, or we be taxed for the full value of it?" It has been obſerved, that the property of many, confeſſedly our *own ſubjects*, was reached by the bill, and meant to be confiſcated without trial, contrary to our bill of rights, and alſo the property of many others, on the ſuppoſition of their being aliens, who really are not aliens, as I have endeavoured to prove in my firſt number. Debts due to Britiſh ſubjects were not reached by the bill, and why ſhould lands, and other perſonal property, be made liable to confiſcation? If a reparation of damages is the ground of confiſcation in the one caſe, why not in the other? The damages done to, and expences incurred by us, will certainly ſwallow up both ſpecies of property. It has been proved, that by the law of nations, the property of unoffending Britiſh ſubjects ought not to be confiſcated; but what of right ought not to be done, though we have the power, we ſhould not do, and therefore, the property, if confiſcated, of ſuch Britiſh ſubjects, or the value of it, ſo far from being withheld from them, ſhould not have been taken away. "We have earnt, continue the delegates, this property (Britiſh) with our ſwords, and will keep it, to give this leſſon to the world, that the enemies of liberty have not ſhared equally with its friends and ſupporters." If the world would not aſcribe *the keeping* of this property to any other motive, than the deſire of leaving it ſo uſeful a leſſon, I ſhould have no objection to the moral, abſtractedly conſidered; but different motives for our conduct may perhaps occur to others, and, I fear, the moſt honourable will not be imputed to us. "We hold, ſay they in another place, our own, and Britiſh property within our ſtate, by our ſwords, *the title to both is the ſame.*" By repeating the ſentiment, I conjecture, they thought it brilliant, however, its falſe brilliancy has betrayed them in this inſtance into ſome little inconſiſtency. If our reſiſtance was lawful, and the war on our ſide juſt, the title to both properties *is not the ſame*; to ſome kinds of Britiſh property, I have endeavoured to prove, we have no title at all, and to our own, though we may not have a more ſecure, ſurely we have a juſter title than mere force.

One great objection ſtarted by the ſenate to the confiſcation and propoſed haſty ſale of part of this Britiſh property, at ſo inclement a ſeaſon of the year, was, that few would probably attend the ſales, and that engroſſers and ſpeculators becoming the purchaſers, would turn into a private job, what might have been intended for a public benefit. That the purchaſers would have conſiſted chiefly, if not altogether, of engroſſers and ſpeculators, I am induced to think from theſe two circumſtances, *they* have the *moſt money*, and could not ſpeculate to ſo great an advantage in any thing elſe, as in buying up confiſcated property, at a quarter part perhaps of its real value. For the full information of the public, it is neceſſary to dwell a little upon this ſubject. Suppoſe the bill for the confiſcation of what was termed Britiſh property, had paſſed towards the cloſe of the laſt ſeſſion; it could not paſs till late in December, becauſe it was withheld by the houſe of delegates, for reaſons beſt known to themſelves, from the ſenate, until the 15th of that month; the delegates inform us, they had propoſed to ſell as much of that property as would have raiſed 5,220,000 dollars, and to have made the firſt payment by the firſt of next February; then, as much of that property as would have raiſed that ſum, muſt have been advertiſed and ſold in the ſpace of one month, generally the moſt inclement in the year; a few only could have had notice of the ſales, and few conſequently (however great the number of perſons inclined to purchaſe might have been) could have attended them, and become purchaſers. It is probable, that twenty or thirty perſons, at the outſide, would have been bidders; might they not have previouſly agreed upon their reſpective portions of the property put up to ſale, to avoid a competition of purchaſe and over bidding on each other? Although none of the delegates may have had ſuch a ſcheme in view, *whatever confidence they might thereby have ſhewn of our ſucceſs*, yet the ſuppoſition, as to others, not members of our legiſlature, is not only poſſible, but probable. Then a given quantity of Britiſh property, which under more favourable circumſtances would have commanded 20,880,000 dollars, for inſtance, would not have ſold for more than 5,220,000 dollars; even the whole of this ſum was not to have been paid down at once, but the payments were to have been made at different periods, as far as can be collected from ſome obſcure intimations in the meſſages of the delegates to the ſenate, for their *entire plan* has been withheld from the knowledge of that branch. Whether perſonal property was intended to have been ſold firſt, or both kinds, real, and perſonal, and what time was to have been allowed for the payment to have been made in, does not appear. Indeed, to judge from a part of the reaſoning in the laſt meſſage of the delegates, it ſhould ſeem that they themſelves had not very clear and diſtinct ideas of the propoſed tranſaction; perhaps obſcurity was affected. Speaking to the objection of the ſenate to the haſty ſale of what they call Britiſh property, they obſerve, "the ſenate has thrown them into a dilemma; if we diſpoſe of the property immediately, it is too ſoon, if not immediately, it is not ſoon enough; the ſale of the property in queſtion will not be affected by the depreciation of the currency, if it ſhould depreciate ſtill more, the property will command the more."

The reaſoning of the ſenate on this point is ſo clear, that I wonder it ſhould be miſconceived by the delegates; was it miſunderſtood in order to be miſrepreſented? The objections of the ſenate to the haſtineſs of the ſale, have been already explained; their objection to the terms of payment, I conceive, to be this. Suppoſe an engroſſer or ſpeculator had purchaſed an eſtate belonging to a Britiſh ſubject, in reality worth 60,000 pounds currency, for 15,000 pounds, owing to the want of competition, from the haſtineſs of the ſale, and to the other cauſes juſt above mentioned. If this ſpeculator is to be indulged with twelve months, for example, to make his laſt and perhaps principal payment on the 15,000 pounds, the money may in the mean time ſo depreciate, as not to be worth one half of what it was worth at the time of the contract; it is evident, if this ſhould be the caſe, that the eſtate in queſtion, ſold this January, would not command more money a year hence, the contract being perfected by the laſt payment, and no greater ſum being originally ſtipulated to be paid than the £15,000. The ſenate has ſuggeſted, and the ſuggeſtion is not improbable, that the arts of the purchaſers would be exerted to depreciate the money, in the intervals between the times of making the contract and of payment. It would be the intereſt of the purchaſers to have the money depreciate, and *therefore* it is probable they would wiſh and endeavour to depreciate it; whether they would ſucceed in their attempt, is another queſtion; ſurely they would not pretend to any merit from their failing in the attempt. I have carefully peruſed the meſſage of the ſenate, and have not diſcovered that "*they are willing to hold out that the money will depreciate*," they ſpeak conditionally, if it ſhould depreciate ſuch will be the conſequence. Neither has the ſenate "*formed to ſuppoſe*," that the purchaſe would, in *their eſtimation be invidious*, but that in the opinion of *ſome*, who might otherwiſe have been willing to have purchaſed, it might be thought ſo, and that that circumſtance might contribute to leſſen the number of purchaſers. If the legiſlature has not a right, upon common law principles, or by the law of nations, to confiſcate all other Britiſh property indiſcriminately (debts excepted), if it has not a right to confiſcate the property of abſentees, under the pretext of its being Britiſh, and the property of both ſhould be confiſcated, *the validity of the title* of the purchaſers may be doubted, although we ſhould eſtabliſh our independence. There is indeed the ſtrongeſt probability that Great-Britain will be obliged to acknowledge our independence, yet conſidering the viciſſitude of all human affairs, more eſpecially in war, [illegible] man, I believe, will be found ſo preſumptuous as to place that event beyond the reach even of adverſe fortune. To uſe power and victory with moderation, is the token of a great and [illegible] mind; whole nations, as well as individuals, are ſuſceptible of this elevation of ſentiment, [illegible] the nation, whoſe ſtriking characteriſtic it was [illegible] while acting upon that principle, was invincible. If we ſhould not by magnanimity, be induced to act with moderation, while proſperous, prudence at leaſt, ſhould incline us not to exceed the *liberties of hoſtility*; "for (as Puſendorf obſerves) the uncertainties and turns of fortune which may happen in war, ought to perſuade men to be very temperate in the uſe of thoſe *liberties*, for ſuch an alteration in affairs ſhould, as it were, make their own weapons recoil, and return upon themſelves the uſage they gave others; and a prince ſhould be cautious that he don't ſet an example to others, that one time or other may be of dangerous conſequence to himſelf."

It is ſomewhat ſtrange, that the delegates, in ſome parts of their meſſage, ſeem to have no other idea of right but what is founded on force, although mere force, unjuſtly exerciſed, can convey no right at all. There is nothing in the proceedings of the ſenate, which have come to my knowledge, to juſtify the aſſertion, "*that they ſeem to entertain ſome doubts of the ſucceſs of our arms*;" indeed their meſſage is full of confidence, founded, I hope, on a knowledge of the reſources of this country, and a belief, that they will be called forth when neceſſary, and uſed with judgment and fidelity, and not be converted to private purpoſes; ſuch an opinion ſurely would give them much greater encouragement, than any they could poſſibly receive from the intereſted willingneſs of engroſſers and ſpeculators, to realiſe, at an exorbitant profit, though with ſome little hazard, their ill-gotten pelf. Neither branch of the legiſlature, it is preſumed, wants *ſuch encouragement as this*, though the meſſage of the delegates, which in this part of it has the appearance of a laboured apology for engroſſers and ſpeculators, inſinuates as much againſt the ſenate. Should the legiſlature be diſpoſed to reſume the property ſo purchaſed by engroſſers and ſpeculators, the violation of public faith, the injuſtice done to men, who confiding in that faith had inveſted their money in the lands about to be reſumed, would be ſounded in our ears by them and their advocates. Even to engroſſers and ſpeculators the legiſlature ought to do juſtice, and as they would have a juſt claim to repaid the monies they had laid out in ſuch purchaſes, thoſe ſums, or an *equivalent* for them, ſhould be refunded in caſe of a reſumption. Thus, although they might not, in the caſe put, make a *profit*, they would ſuffer no *loſs*. But if the property in queſtion ſhould be confiſcated, and once diſpoſed of, is a reſumption of it by our legiſlature certain, or even probable, though it ſhould be evident that the public had parted with that property greatly under value? Mean conveyances of parts of it would probably be made, before the intention of reſuming it would be known, or the reſumption could take place; it would be extremely difficult in either caſe, and unjuſt in the former, to unravel and ſet aſide the intermediate ſales. That the engroſſers and ſpeculators would ſell out again a part of their purchaſes, is probable, unleſs more effectual means ſhould be taken hereafter, if the property in queſtion ſhould be confiſcated, to make them pay the full value thereof, than would have been [illegible] the delegates at the laſt ſeſſion, had it [illegible] for the interpoſition of the ſenate. For [illegible] property, improperly ſo called, had been confiſcated, and put up to ſale under the unfavourable circumſtances already mentioned, there can be *no* doubt but what it would have ſold much under its value, and *little*, but that the original purchaſers by ſelling, perhaps, a twentieth part of their purchaſes, might have replaced in their own pockets the whole of the money paid to the public; and thus the money, "*the means of ſpeculation, would not have been drawn* (as the meſſage ſuppoſes) *out of the hands of engroſſers and ſpeculators.*" View therefore the projected ſales which way we pleaſe, the public would have reaped very little advantage from them; engroſſers and ſpeculators, at the worſt, would only not have made a profit, but might, if not ſtript of their purchaſes, have acquired great fortunes for ſmall conſiderations. The meſſage attempts to draw an argument in favour of an immediate ſale of the property intended to be confiſcated, from the poſſibility of the currency depreciating ſtill more, but this argument the delegates have anſwered in another part of their meſſage; if the bills of credit ſhould continue to depreciate, *loſt* property will command the *more* of them, as they juſtly obſerve, though they apply the obſervation very improperly, as has been noticed.

Individuals should take care, especially *public ...ters*, when they make assertions, to confine themselves strictly to the truth. This precaution is not scrupulously attended to by the delegates when they asserted, that "*the senate admit they are greatly apprehensive of the consequence, should our paper currency continue to depreciate, and cease to circulate.*" This part of the senate's message, as several others, has been misrepresented. The passage alluded to is an answer to an assertion in the former message from the delegates, wherein they say, the enemy's hopes of success are founded on a failure of our public credit, subjoining, in their *own opinion*, that our paper currency is the *only means* we have of carrying on the war. To this the senate reply, the enemy's hopes, even should a public bankruptcy happen, would probably be disappointed, as they have been in many other instances; the word *even* has here a peculiar force, and implies directly the contrary of what is charged upon the senate, viz. an apprehension of *some bad* consequences from that event, but not *so bad* as to disable us from carrying on the war; in support of this opinion they allege, that money, *especially paper money*, is not the sinews of war, but good soldiers and good officers, the necessaries of life, numbers, and above all, *the virtue of the people*; they have the authority of Machiavel (see the 10th chap. of his second book of discourses on Livy) for this opinion, and the experience of past ages. The Grecians repelled the invasions of the Persians, an *infant* and powerful people; the Swiss, though poor, maintained their liberties against the house of Austria, through an almost uninterrupted struggle and conteſt, for several centuries; they fought, the latter particularly, mostly on the defensive, and in defensive wars, if judiciously managed, money, at least *so* much of it, is not so necessary as in offensive wars, in which distant, and course expensive expeditions are commonly undertaken. Admit our currency should come to nothing, does it follow we should be destitute of *all* resources? Would the virtue too of our people sink with that currency? Have we no gold and silver among us? Though the quantity should be small, this very scarcity will make it the more valuable, and consequently it will command the more of every saleable article. Taxation, in kind, would in a great degree supply the deficiency of solid coin; would not France and Spain assist us with a subsidy? It is not the interest of those powers to suffer us to be reduced under the British yoke, and therefore we may reasonably presume, they would assist us with money, and with their fleets and armies too, if necessary. We have already derived considerable aid from France, and might expect greater, in proportion to our difficulties and distress. Yet we ought not to rely altogether on foreign aid, we must make the *greatest exertions* for our own relief, for these very exertions will be a strong additional inducement to our ally to help us. We have resources, without resorting to injustice, the breach of our constitution, and of common law, if we will call them forth: some of them have been mentioned; the sale of the *back lands*, next to taxes punctually and quickly levied, the greatest of all our internal resources, for procuring money, remains to be considered.

But the sale of these lands, say the delegates, cannot be made, upon the principles of the senate, because if their principles are just, they ought not to be confiscated. I have not met with any principle, or principles, laid down by the senate, which would prevent the confiscation, more properly the conquest, and sale of [illegible] lands, particularly, if they belong, as the states assert, to the king of Great-Britain, in trust for the British nation. The objection of the senate to the confiscation of British property, seems to extend no farther than to *private* property; they do not *positively* assert, that even that property may not, by the extreme rigour of the law of nations, be confiscated. "As far as we have examined, say they, into the subject, we *doubt*, whether by a fair construction of that law, the declaration of independence can have such a *retrospective operation*, as to vest in this state *all* British property, acquired by *individuals*, antecedently to it." Here, they seem to intimate, that *some* kind even of *private* British property may be confiscated; they express their doubt whether *all* British property, within this state, is vested in it, by the declaration of independence, and this doubt is confined only to property acquired by *individuals*, that is, to *private* property: the plain and obvious inference therefore, to be drawn from the sentence, is, that *public British property* may be confiscated, in the opinion of the senate.

If the principles herein before laid down be true, and the reasoning upon them conclusive, no doubt can remain, but that the back lands, belonging to, or which did belong to the British king, as the representative of the British nation, may be confiscated by the law of nations; nor is there any thing alleged, by the senate, contradicting this conclusion. Upon the same principles, if they belong to the native Indians, and *they*, being really aliens, have unjustly warred against us, and those lands are not possessed by individuals among them, but held *collectively* by the tribes, *they* may also be confiscated; if an exclusive property, in some portions of the territories in question, has taken place among them, *the individuals* of those tribes, who by committing hostilities upon us, have incurred the *guilt* of an unjust war, and made themselves *criminal* members of their society, *they* too, as *aliens*, and *criminal* members, may forfeit the lands held by them, as *private* property. The United States, by the right of conquest, upon the principles of the common law, and the law of nations, would acquire a just title to those lands, supposing them to belong either to the king of Great-Britain, or to the Indians collectively, or individually. But should the congress adopt the reasoning of the senate, the delegates shrewdly remark, it will not be willing to confiscate the back lands, because a restitution of them to the British crown, or an equivalent, may be made a preliminary of the peace: for if the restitution of the *private* property of refugees, or British subjects, or the value thereof, should be made a preliminary article, the restitution, surely, of *public* property, in which the whole British nation is interested, will be made one. This argument, if it deserves the name, has been already answered; a restitution of this *public* property cannot be demanded, as has been proved, by any right, arising out of the law of nations; if a restoration of the conquered country should be demanded upon any such principle, the demand would not be complied with, because the safety of these States, and the interests of both France and Spain, oppose the restitution, and therefore the *full and entire title*, or *right*, to this *public* property, will be finally passed away from the British king, by the treaty of peace, unto these United States. A restitution of *private* property, or the full value of it, if the owners should not chuse to reside in these States, or the laws of any of them should exclude the residence of particular obnoxious persons, is not liable to the same difficulties and objections, as has been already observed.

It is difficult to comprise within the limits of a newspaper all that ought to be said on this subject; and although I have already exceeded those limits, I must not omit one argument more against the measure. The delegates contend, that *all British subjects* became *aliens*, as to us, by the declaration of independence: on this principle, they originated the bill for seizing and confiscating British property, and on this they principally rest its defence. Now, whether *all British subjects* became *aliens*, or not, in this state, by that declaration, is, as I conceive, a point of law, triable in our courts of law, and with the decision of which, the legislature has nothing to do, unless going out of its province, it should assume a judicial power; but in so doing, it would run counter to the 5th article of our declaration of rights, which provides, "that the legislative, executive, and judicial powers of government, ought to be for ever separate and distinct from each other."

"In this distinct and separate existence of the *judicial power* (judge Blackstone remarks) consists one main preservative of the public liberty; which cannot subsist long in any state, unless the administration of common justice be in some degree separated both from the legislative and also from the executive power. Were it joined with the legislative, the life, liberty, and property, of the subject, would be in the hands of *arbitrary judges*, whose decisions would be then regulated only by *their own opinions*, and *not by fundamental principles of law*; which, though legislators may depart from, yet judges are bound to observe."

Whether there is force in the foregoing observations and reasoning, the public, to whom the appeal is made, must determine; if it should determine in favour of the senate, it must also determine, that the fears and reasons of that branch of our legislature are not groundless. And here I would wish to conclude the investigation of a subject in which the people of this state are deeply interested, but I must trespass on their patience a little longer, while I examine the *necessity* of seizing and confiscating what is called British property, which seems to be relied on by the delegates, as a principal argument in support of the measure.

Jan. 19, 1780. A SENATOR.

For the MARYLAND GAZETTE.

THE publication in your last week's paper, under the signature of a senator, has given not only pleasure, but information to me, and many of my neighbours. We have heard of the difference, between the senate and the house of delegates, about the justice and the policy of confiscating British property. I have seen the messages, which passed between our two houses, on that subject, and the resolves entered into by the house of delegates, on the senate's negative to their bill. Any diversity of opinion between the two branches of the legislature, which may prevent or retard the public business, create animosity and rancour between the members, or injure, in any degree, our common cause, must give pain to every real friend to this state. We are still involved in a war, on the success of which our liberties, our property and our happiness depend. Every cause of disunion therefore ought most carefully to be avoided, and much have they to answer for, who are the authors of it. I understand, both houses have appealed to us their constituents, and the house of delegates have earnestly requested our instructions, as to the propriety of the measure. I cannot but remark, that it appears to me that the people at large are very incompetent judges of the subject. Very few of us can be supposed to be acquainted with the laws or practice of nations. The one branch alledges, "the confiscation of British property (debts excepted) is justified by the immutable principles of justice, and the law of nature and nations, and founded in policy and necessity." The other denies "the justice, the policy, or the necessity of the measure, and says it is contrary to the laws and practice of the civilized nations of Europe." Both sides have offered some reasons, and seem equally positive and decided in their opinions. I wish the house of delegates had not, by their resolves, so severely censured the senate, and pointed their anger at a few members of that body. They seem to me to wish to draw the public resentment on five gentlemen, because they differ from them in opinion, on a political question. For an error in judgment (if it was one) they declare, "all consequences, which may happen, from not complying with the requisition of congress, ought to be imputed to those members of the senate, who gave their negative to the bill;" and in their message they insinuate, "that their conduct proceeded from a partiality or affection to the old government, or a desire to secure the estate of the late proprietary from confiscation." It ought to be remembered, that the senate is elected by the people. That body was created by our constitution, to be a check and controul to the house of delegates, to correct their errors, and to prevent those popular passions, prejudices, and predilections, to which every numerous body are liable. Their duration affords stability, and the mode of their election secures a choice of the most proper men for their high and important station in our government. The present members are gentlemen of family, fortune, knowledge, experience, and abilities. I confess the senate is my favourite branch, and I am displeased at any thing which may tend to lessen their weight and dignity, or to injure their reputation and credit with the people. They are really the first men in our state. They are all equally engaged with us in the war; their lives and fortunes depend on its success. They cannot have a distinct and separate interest from the people. They are connected with us by the ties of blood, marriage, and friendship. They are as deeply interested in the welfare and happiness of this country, and have as much at stake, as any other set of men in the state, and bear with us their proportion of the burthens of the war. I do not make these observations to induce my countrymen to place an implicit opinion or confidence in that branch of the legislature, or to prevent the strictest examination into, and discussion of their public conduct, but to guard the people against improper and ill-grounded jealousies and suspicions. I should not have said thus much, if, some time past, aspersions had not been cast on some of the body, and even doubts entertained of their whiggism and attachment to our independency; and from a fear that the late resolves of the delegates, and the insinuations in their message, would give countenance to the suspicion. If there are any in the senate unworthy of the public confidence, or whose political integrity may be justly suspected, I wish they were known; but till they are pointed out, I will believe them all firm whigs, and zealously attached to our liberties and independence, and as such not only give them my confidence but support.

I am one of those who do not see the justice of seizing British property. I conceive the case to be entirely new; that the laws or rules, or practice observed by independent nations when at war, cannot apply to revolutions like the present, and that our conduct ought to be governed only by such principles as appear to us founded in justice and equity. I apprehend the intended confiscation will affect and take away the property (which may be within this state) of two classes

of men, 1. Natives of Great-Britain or any of its dominions, other than the colonies (now United States) who never came into and joined us in the present war, or been employed in our service. 2. Natives, or inhabitants of this or any other of the states, who, since the commencement of hostilities by Great-Britain against us, joined the enemy, or withdrew from the continent, and went to Great-Britain, the latter of whom are commonly known by the name of American refugees. If we confiscate the property of the first class, without any discrimination, we shall certainly injure, in some cases ruin, many *innocent* people. Some who could never have offended us by word or deed, helpless women and harmless infants. Our friends in Great-Britain must also be involved in one common ruin, men who have openly asserted our cause, and justified our conduct. We shall by such indiscriminate seizure destroy the distinction between vice and virtue; we shall destroy all confidence, and make those who have been our advocates our bitter and inexorable enemies. I believe but few, who are really criminal in their conduct as to us, will be affected by the confiscation, in comparison with the great numbers, who are innocent and unoffending. Probably not one in an hundred. How can we reconcile the taking the property of Mr. Hanbury, Mr. Russell, Mr. Glassford, and other merchants, who hold lands and other property in this country. They have ever avowed themselves our friends. Many of us are under personal obligations to those gentlemen, and to injure them would be the basest ingratitude. Colonel Sharpe behaved well in his government, his faults were few, his virtues many; his conduct, at the time of the stamp-act, ought not to be forgot. He had a strong affection for this country, his desire was to breathe his last in it; peculiar circumstances called him to England, and he will probably return, unless prevented by our cruel and ungenerous treatment. Our late governor Eden was as much our friend as consistent with, or could be expected from his trust to the crown. He departed from this state with reluctance, and with the permission if not at the desire of the convention; and he never bore arms, or took any open active part against us, and he was of too noble, too generous a disposition, to injure us in private. The late proprietary (whose estate seems to be the great object of the advocates for the measure) is an infant. If we do not violently lay our hands on his revenue, manors, reserves, and ungranted lands, it is probable, after our independence is established, he will come and live among us, spend his income, and add to our numbers. The loss of his government he will not repine at, because necessary to support our liberties and our independence. There are many others, in the same situation with those I have mentioned, equally the objects of our attention, and whole property ought to be excepted. Indeed, if any confiscation takes place, I would have it confined to those particular members of the British nation, who, by their immediate and direct consent, have engaged in the war against us. I cordially assent to the position, "that the justice of the confiscation depends on a knowledge of the persons who will be affected by it."

As to the second class—I have as great a resentment against some of them, as any man in the state; but great difficulties will occur in drawing the line to distinguish the guilty from the innocent. Some of them ought to be considered as *subjects* of this state, and if they have taken up arms, or done any act declared treason by our act of assembly, they ought to be punished as traitors, but they are entitled to a legal trial. I cannot conceive how any man can be adjudged a subject of this state, before the declaration of independence, on the 4th of July, 1776. Before that day we were all subjects of the king of Great-Britain. In a *civil war*, no criminality ought to be imputed to any man who took part with either side. Humanity, policy dictates a strict observance of this rule. No man, therefore, who joined the enemy, or withdrew from this country, before the declaration of independence, can be considered as a traitor, or as a delinquent, or offender against this state; nay, I question whether, before the establishment of our new government, any one could be considered as guilty of treason, or any other offence against it. Can a person be guilty of treason against any state or government, before such state or government is formed or established? If any citizen of this state, after the 4th of July, 1776, took up arms against it, or if any citizen, after our act of assembly to punish treason, committed any act by that law declared treason, such citizen ought to be tried and punished agreeable to the law of nations, or the act of assembly. I do not discover any great difficulty in ascertaining who are British subjects, but I think it almost impracticable to determine, who ought to be considered as subjects of this state. As for those absentees who retired or withdrew at any time, either before or after the declaration of independence, and who have not borne arms against us, it would be unjust and cruel to forfeit their property. It would savour too much of plunder and indiscriminate revenge. It would seem to proceed from private hatred to particular men. Was there any law which declared their departure unlawful, and annexed a penalty? Was it criminal to leave a country involved in a war to avoid its calamities, and the consequences which might arise from their stay? If by their departure they infringed no law, upon what principles can the confiscation of their property be justified?

I think there is a manifest difference between seizing goods of an enemy, found on the high seas, or in their country, and their property in our power, within the state. I have ever understood it to be the practice of all nations at war, to capture vessels and their cargoes; in that case, the owner trusts his property on the seas, with a knowledge of his risk, and a certainty of a loss if taken, but he may insure if he pleases. In the present case it was lawful for those, who are now become our enemies, to acquire property within the state, and when they obtained it they reposed a confidence in us, and relied on our implied faith for its protection and security. It may also be the practice of nations at war to seize goods in the enemies country, but in that case, such conduct may be expected from the usage, and there is no breach of faith.

I readily agree to the distinction between confiscating the lands, and the goods or other personal property possessed by British subjects in this state. I have never heard of an instance, and the advocates for the measure, I believe, cannot shew one, of a confiscation of immoveable property, as land, possessed by the subjects of an enemy. No stronger argument need be adduced, than that such a seizure has never been made. The difference between confiscation and sequestration is obvious. The first takes away the whole property, the other only affects the income, or profits. To prevent a remittance of the income, may be proper to weaken the enemy.

I do not see that any great advantages will accrue to the public from the sale of British property. If we take only what belongs to individuals who have been criminal, it will be of little value, and not worthy the notice or time of our assembly. I believe there is no public property in this state belonging to the king or nation of Great-Britain. Indeed, if all the British property in this state is sold, and the amount carried into our treasury, I believe it will not be so considerable as expected, nor can it enable us to carry on the war, as the friends of the measure flatter themselves. There is no doubt, that engrossers and speculators will constitute the far greater part of the purchasers, as they alone are able to lay down great sums of money, and therefore, I should not wonder if they are warm advocates for a general confiscation. Those miscreants have almost ruined America, and now we are to realize their heaps of continental. I hope no suspicion justly lies against any of the public advocates for the late bill, that they or their connections intend to become large purchasers of the forfeited estates.

The people in this county appear very unconcerned about the question of confiscating British property. I do not believe any instructions will be given by them. Some few of those, who always love to fish in troubled waters, began to make a stir, but I am inclined to think the reasons urged by the Senator, his spirit and resolution in defending the conduct of the senate, will effectually silence any clamours against them in this county. The tribune leaders will find themselves unable to answer so able an adversary, and the people will leave such abstruse subjects to the discussion and determination of their legislature.

A PLEBEAN.

Prince-George's county, Feb. 16, 1780.

FISH-KILL, *February* 3.

We learn that the enemy, in two divisions, have made an excursion into New-Jersey, and surprised our guards at Elizabeth-Town; where they burnt the meeting-house, school-house and gaol, and carried off several prisoners: at Newark, they burnt the academy, and made prisoner Justice Kedden, and about twenty-five more.

PHILADELPHIA, *Feb.* 1.

Extract of a letter from an officer in high ... dated Charles-Town, Dec. 29, 1779.

"By the last accounts from Savannah, ... learn that the enemy are quiet, and, for ... sake of an airing, they have encamped ... troops at several plantations, at the distance ... 10 miles round, the farthest from town ... Abercorn. They are fitting some transports ... sea.

"Before this reaches you, you will doubtless hear, that the Spaniards have been up the Mississippi, and possessed themselves of the English settlements on that river, and that they made ... prisoners; that about the beginning of ... month they left Havanna with a respectable ... with 4000 troops for Pensacola or St. Augustine, perhaps both. This the enemy affect to ... lieve, and are not reinforcing their posts ... hourly expect the troops from New-York."

To be SOLD in the city of Annapolis, ... PUBLIC VENDUE, pursuant to ... act to empower the governor and the ... to sell the public property therein mentioned, ... on Wednesday the 15th of March next,

THREE GALLIES, with their ... apparel, and furniture; a considerable ... quantity of naval and military stores; some ... saltpetre, horses, waggons, harness, and ... and the interest of the state in the tan-yard ... the city of Annapolis. Inventories of the ... culars will be lodged at Mr. George Mann's ... vern in Annapolis, and at the merchants ... house in Baltimore Town, by the first day ... March.

By order of the council, *Paid*

T. JOHNSON, jun. Cl.

A PETITION will be offered to the ... session of the general assembly after this ... tice shall have been published eight weeks, ... an act admitting to record, and giving ... from the date to a deed executed in Prince ... George's county, by George Conn to ... Shaw, for part of a tract of land called Will ... and Anne.

8w8 RICHARD HENDERSON.

A PETITION will be offered to the ... session of the general assembly after ... notice shall have been published eight weeks, ... an act admitting to record and giving effect ... the date to a deed executed in Prince-Geo ... county, by Mary Athey to John Webster, ... part of a tract of land called Athey's Choice.

8w JOHN WEBSTER.

TAKEN from on board a pilot boat, ... drove on shore on the 23d day of Dec ... ber, between Little and Great Choptank, ... dry articles, as sails, cordage, butter, &c. ... a chest some distance from her, having in it ... and womens apparel; the chief of her lading ... tobacco, which cannot be saved. The owner ... owners of said boat are desired to come and ... their property, and pay the subscribers for ... agreeable to law and custom in such cases.

THOMAS LINTHICUM,

w3 2 ABRAHAM LEE,

JOHN LEE.

TAKEN up as a stray by Joseph Wil ... living near the court-house in Montgom ... , Maryland, a small bay MARE, ... and a half hands high, ten or eleven ... , branded on the off buttock something ... , had a bell on her, and was shod before ... came. The said mare was sold by the ... scriber in March, 1778, to a certain Ch ... Pritchett, who has since swapt her away. ... owner is desired to prove property, pay charges ... and take her away.

2 JOSEPH WILSON.

ALL persons having any demands against ... as deputy quarter-master-general, ... for monies due or that will become due ... first of March, are requested to send in their ... counts with all possible dispatch, in order ... settlement; on receipt of which, the ba ... will either be paid or certificates given for ... shall appear to be due to the first of March ... which time I am directed by the quarter-master-general to furnish all accounts in my ... without fail.

2 H. HOLLINGSWORTH,

D. Q. M. G. E. shore, St. Mary's.

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